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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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WEISS & MOY PC 4204 NORTH BROWN AVENUE SCOTTSDALE, AZ 85251			EXAMINER BUTLER, MICHAEL E	
			ART UNIT 3653	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/803,353

Applicant(s)

YOUNG ET AL.

Examiner

Michael Butler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 06142006 & 06272005

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

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DETAILED ACTION***IDS***

1. The information disclosure statement filed 06/14/2006 fails to comply with 37 CFR 1.98(a)(2) because it does not include all of the cited references. It has been placed in the application file, but the information referred to therein has not been considered.

Patent 5699911 has been withdrawn from publication. Applicant has neither supplied patent 5699911 nor is it available on databases nor is it apparent what publication matches that document as 5699911 was withdrawn from publication.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 42.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 182 fig. 8. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to

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the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 2 and 12-15 are rejected under 35 U. S. C. 112 second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(Re: cl 2) It is not apparent from applicant's specification what eccentricity constitutes the line for a substantially thin profile. (Re: cl 12) It is apparent what standard profile a relatively thin profile is being contrasted to.

The applicant has used the following terms with a lack of antecedent basis in the claims: (Re: cl 14) the upper portion of the body.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless --

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States
- (c) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

7. Claim(s) 1-5 and 14 is/are rejected under 35 U.S.C. 102(b) as being anticipated by Balish (WO 02/064435A2) which discloses all the claimed elements including:

(Re: cl 1) A wipe dispensing container, comprising: an upright container body(12 fig 1);
and a lid for the upright container body, having a seal member thereon for mating with a lip in the upright container body when the lid is in a closed position (p3 L 3-15)
(Re: cl 2) wherein said wipe dispensing container has a substantially thin profile (12 fig 1)
(Re: cl 3) wherein the upright container body includes a bottom wall, upstanding front and rear walls, and two sidewalls to define an open mouth (p5 L 4-33)
(Re: cl 4) further including a bridge removably mounted in the open mouth of said upright container body and defining a dispensing aperture, said bridge being removable from said wipe dispensing container to permit access to the interior of the upright container body (20 fig 1)
(Re: cl 5) wherein the bridge is press fit into the open mouth of the dispensing container (20 fig 1)
(Re: cl 14) A method of dispensing at least one wipe from a wipe dispenser, comprising the steps of: Opening a lid on the wipe dispenser; Drawing the at least one wipe through a dispensing aperture defined in a bridge in an open mouth of the wipe dispenser (p6 25-p7 L 5);
Closing the lid on the wipe dispenser such that the lid is flush with the upper portion of the container body (p11 L 10-12; p9 L 18-19);
Repeating said opening, drawing, and closing steps until substantially all of the at least one wipe within the wipe dispenser are depleted (p6 L 27-29 ,inherent with the refilling process);
Removing the bridge and replacing the at least one wipe under a spring device within the wipe dispenser (p6 L 25-32);
and Replacing the bridge and closing the lid (p5 L 18-19)

8. Claims 1-5, 10 are rejected under 35 U.S.C. 102(b) as being anticipated by

Margulies 4526291 which discloses all the claimed elements including:

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(Re: cl 1) A wipe dispensing container, comprising: an upright container body; and a lid for the upright container body, having a seal member thereon for mating with a lip in the upright container body when the lid is in a closed position (c3 L 31-45)

(Re: cl 2) wherein said wipe dispensing container has a substantially thin profile (6 fig 2)

(Re: cl 3) wherein the upright container body includes a bottom wall, upstanding front and rear walls, and two sidewalls to define an open mouth (c3 L 38-45)

(Re: cl 4) further including a bridge removably mounted in the open mouth of said upright container body and defining a dispensing aperture, said bridge being removable from said wipe dispensing container to permit access to the interior of the upright container body (38 fig 2B)

(Re: cl 5) wherein the bridge is press fit into the open mouth of the dispensing container (c4 L 38-46)

(Re: cl 10) wherein the dispensing aperture comprises an opening with a variable width for dispensing a selected nonwoven wipe (18/20/22 fig 5).

9. Claims 1, 3-5, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by

Faulks et al. us2002/0023932a1 which discloses all the claimed elements including:

(Re: cl 1) A wipe dispensing container, comprising: an upright container body; and a lid for the upright container body, having a seal member thereon for mating with a lip in the upright container body when the lid is in a closed position (§ 48-49)

(Re: cl 3) wherein the upright container body includes a bottom wall, upstanding front and rear walls, and two sidewalls to define an open mouth (§ 50)

(Re: cl 4) further including a bridge removably mounted in the open mouth of said upright container body and defining a dispensing aperture, said bridge being removable from said wipe dispensing container to permit access to the interior of the upright container body (§ 50)

(Re: cl 5) wherein the bridge is press fit into the open mouth of the dispensing container (§ 50)

(Re: cl 7) wherein the bridge is sized to define at least one finger access between the bridge and the walls of the upright container body (§ 50).

10. Claims 1-3, 8 -9, 11 are rejected under 35 U.S.C. 102(b) as being anticipated by

Martens 2274866 which discloses all the claimed elements including:

(Re: cl 1) A wipe dispensing container, comprising: an upright container body; and a lid for the upright container body, having a seal member thereon for mating with a lip in the upright container body when the lid is in a closed position (upper left corner, 24 fig 6)

(Re: cl 2) wherein said wipe dispensing container has a substantially thin profile (Fig 6)

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(Re: cl 3) wherein the upright container body includes a bottom wall, upstanding front and rear walls, and two sidewalls to define an open mouth (12/13/10)
(Re: cl 8) further comprising a spring device within the upright container body for maintaining a stack of wipes in a substantially upright position within the interior of the upright container body. (28 fig 3)
(Re: cl 9) wherein the spring device extends along the vertical axis of the upright container body (c2 L 23-31; p2 c1 L 71-c2 L 5)
(Re: cl 11) wherein the stack of wipes is fitted in a vertical axis of the upright container body (p2 c1 L 23-31).

11. Claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by Wright

5390820 which discloses all the claimed elements including:

(Re: cl 1) A wipe dispensing container, comprising: an upright container body; and a lid for the upright container body, having a seal member thereon for mating with a lip in the upright container body when the lid is in a closed position (Fig 1; c4 L 47-60)
(Re: cl 8) further comprising a spring device within the upright container body for maintaining a stack of wipes in a substantially upright position within the interior of the upright container body (15/3 fig 2)
(Re: cl 11) wherein the stack of wipes is fitted in a vertical axis of the upright container body (19 fig 1).

12. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Jackson et

al. 4865221 which discloses all the claimed elements including:

(Re: cl 1) A wipe dispensing container, comprising: an upright container body; and a lid for the upright container body, having a seal member thereon for mating with a lip in the upright container body when the lid is in a closed position (fig 3; c11 L 1-39)
(Re: cl 2) wherein said wipe dispensing container has a substantially thin profile (66 fig 3)
(Re: cl 3) wherein the upright container body includes a bottom wall, upstanding front and rear walls, and two sidewalls to define an open mouth (66 fig 3)
(Re: cl 4) further including a bridge removably mounted in the open mouth of said upright container body and defining a dispensing aperture, said bridge being removable from said wipe dispensing container to permit access to the interior of the upright container body (79 fig 3)
(Re: cl 5) wherein the bridge is press fit into the open mouth of the dispensing container (c11 L 27-39).

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13. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Taormina 6170651 which discloses all the claimed elements including:

(Re: cl 1) A wipe dispensing container, comprising: an upright container body, and a lid for the upright container body, having a seal member thereon for mating with a lip in the upright container body when the lid is in a closed position (c4 L 45-60)

(Re: cl 2) wherein said wipe dispensing container has a substantially thin profile (30 fig 1)

(Re: cl 3) wherein the upright container body includes a bottom wall, upstanding front and rear walls, and two sidewalls to define an open mouth (96 fig 6)

(Re: cl 4) further including a bridge removably mounted in the open mouth of said upright container body and defining a dispensing aperture, said bridge being removable from said wipe dispensing container to permit access to the interior of the upright container body (38 fig 2B)

(Re: cl 5) wherein the bridge is press fit into the open mouth of the dispensing container (c4 L 30-44).

14. Claims 1,3-11 and 14-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Kenmotsu 2619398 which discloses all the claimed elements including:

(Re: cl 1) A wipe dispensing container, comprising: an upright container body; and a lid for the upright container body, having a seal member thereon for mating with a lip in the upright container body when the lid is in a closed position (c1 L 45-c2 L 6; fig 2)

(Re: cl 3) wherein the upright container body includes a bottom wall, upstanding front and rear walls, and two sidewalls to define an open mouth (c1 L 45-55)

(Re: cl 4) further including a bridge removably mounted in the open mouth of said upright container body and defining a dispensing aperture, said bridge being removable from said wipe dispensing container to permit access to the interior of the upright container body (5/16 fig 2-4)

(Re: cl 5) wherein the bridge is press fit into the open mouth of the dispensing container (c2 L 1-7)

(Re: cl 6) wherein the front wall of the upright container body is shorter than the rear wall thereof with the two sidewalls angled upwardly toward the rear wall thereof to provide an angled open mouth (at 11 & 12 vs. 6 fig 2)

(Re: cl 7) wherein the bridge is sized to define at least one finger access between the bridge and the walls of the upright container body (C1 l 52-55)

(Re: cl 8) further comprising a spring device within the upright container body for maintaining a stack of wipes in a substantially upright position within the interior of the upright container body (15 FIG 3)

(Re: cl 9) wherein the spring device extends along the vertical axis of the upright container body (15 FIG 3)

(Re: cl 10) wherein the dispensing aperture comprises an opening with a variable

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width for dispensing a selected nonwoven wipe (12 vs. 11 fig 2)
(Re: cl 11) wherein the stack of wipes is fitted in a vertical axis of the upright container body (c2 L 17-28)
(Re: cl 14) A method of dispensing at least one wipe from a wipe dispenser, comprising the steps of: Opening a lid on the wipe dispenser (c2 L 50-56); Drawing the at least one wipe through a dispensing aperture defined in a bridge in an open mouth of the wipe dispenser (c2 L 17-49); Closing the lid on the wipe dispenser such that the lid is flush with the upper portion of the container body, repeating said opening, drawing, and closing steps until substantially all of the at least one wipe within the wipe dispenser are depleted, Removing the bridge and replacing the at least one wipe under a spring device within the wipe dispenser; (shown in fig 3) and Replacing the bridge and closing the lid (inherent with intended operation) (Re: cl 15) further comprising the step of placing the wipe dispenser horizontally onto a surface before drawing the at least one wipe through the dispensing aperture (base of fig 3).

15. Claims 1, 3-5 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by

Temesvary et al. 5263607 which discloses all the claimed elements including:

(Re: cl 1) A wipe dispensing container, comprising: an upright container body (abstract) ; and a lid for the upright container body, having a seal member thereon for mating with a lip in the upright container body when the lid is in a closed position (10 fig 1)
(Re: cl 3) wherein the upright container body includes a bottom wall, upstanding front and rear walls, and two sidewalls to define an open mouth (c2 L 47-57)
(Re: cl 4) further including a bridge removably mounted in the open mouth of said upright container body and defining a dispensing aperture, said bridge being removable from said wipe dispensing container to permit access to the interior of the upright container body (c2 L 66-c3 L 12)
(Re: cl 5) wherein the bridge is press fit into the open mouth of the dispensing container (32b & 4 fig 3)
(Re: cl 10) wherein the dispensing aperture comprises an opening with a variable width for dispensing a selected nonwoven wipe (abstract)

16. Claims 1, 3-5 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by

Bitwoft et al. 6092690 which discloses all the claimed elements including:

(Re: cl 1) A wipe dispensing container, comprising: an upright container body; and a lid for the upright container body, having a seal member thereon for mating with a lip in the upright container body when the lid is in a closed position (c2 L 35-63)
(Re: cl 3) wherein the upright container body includes a bottom wall, upstanding

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front and rear walls, and two sidewalls to define an open mouth (c2 L 35-63)
(Re: cl 4) further including a bridge removably mounted in the open mouth of said upright container body and defining a dispensing aperture, said bridge being removable from said wipe dispensing container to permit access to the interior of the upright container body (c2 L 35-63)
(Re: cl 5) wherein the bridge is press fit into the open mouth of the dispensing container (top of base sides mating with bridge recess in fig 2)
(Re: cl 7) wherein the bridge is sized to define at least one finger access between the bridge and the walls of the upright container body (inclined lip at side of bridge 3).

17. Claim 6 is rejected under 35 U.S.C. 102(b) as being anticipated by Stephens

4964526 which discloses all the claimed elements including:

(Re: cl 1) A wipe dispensing container, comprising: an upright container body (20) and a lid for the upright container body, having a seal member (42) thereon for mating with a lip (60 / 44) in the upright container body when the lid is in a closed position
(Re: cl 3) wherein the upright container body includes a bottom wall, upstanding front and rear walls, and two sidewalls to define an open mouth (c5 L 29-41)
(Re: cl 6) wherein the front wall of the upright container body is shorter than the rear wall thereof with the two sidewalls angled upwardly toward the rear wall thereof to provide an angled open mouth (26 & 32 fig 2 / 3 vs. 24 fig 2 / 3)

18. Claims 1-6 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by

Lewis et al. 6592001 which discloses all the claimed elements including:

(Re: cl 1) A wipe dispensing container, comprising: an upright container body, and a lid for the upright container body, having a seal member thereon for mating with a lip in the upright container body when the lid is in a closed position (c6 L 25-67)
(Re: cl 2) wherein said wipe dispensing container has a substantially thin profile (10 fig 1)
(Re: cl 3) wherein the upright container body includes a bottom wall, upstanding front and rear walls, and two sidewalls to define an open mouth (c6 L 25-67)
(Re: cl 4) further including a bridge removably mounted in the open mouth of said upright container body and defining a dispensing aperture, said bridge being removable from said wipe dispensing container to permit access to the interior of the upright container body (22 fig 3)
(Re: cl 5) wherein the bridge is press fit into the open mouth of the dispensing container (c3 L 35-44)
(Re: cl 6) wherein the front wall of the upright container body is shorter than the rear wall thereof with the two sidewalls angled upwardly toward the rear wall

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thereof to provide an angled open mouth (12 vs. 26 fig 1, subjective as to which is the front vs. the rear wall)
(Re: cl 10) wherein the dispensing aperture comprises an opening with a variable width for dispensing a selected nonwoven wipe (c2 L 28-41)

Claim Rejections - 35 USC § 103

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

20. Claim(s) 6 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Taormina 6170651 in view of Persson (US 2002/0170841A1) wherein the former discloses the elements previously discussed and The latter discloses any elements not inherently taught by the former including:

(Re: cl 6)(3) wherein the front wall of the upright container body is shorter than the rear wall thereof with the two sidewalls angled upwardly toward the rear wall thereof to provide an angled open mouth (18 fig 1).

It would have been obvious for Taormina to differentiate wall size to ease access to the internal contents as taught by Persson and come up with the instant invention as claimed.

21. Claim(s) 1-5 and 8-13 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Julius et al. 5667092 in view of Fenton US2005/0189372A1 wherein Julius discloses:

(Re: cl 1) A wipe dispensing container, comprising: an upright container body (18); and a lid for the upright container body, having a seal member thereon for mating with a lip in the upright container body when the lid is in a closed position (3)

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(Re: cl 2) wherein said wipe dispensing container has a substantially thin profile (2 fig 2)

(Re: cl 3) wherein the upright container body includes a bottom wall, upstanding front and rear walls, and two sidewalls to define an open mouth (top fig 12,8)

(Re: cl 4) further including a bridge removably mounted in the open mouth of said upright container body and defining a dispensing aperture, said bridge being removable from said wipe dispensing container to permit access to the interior of the upright container body (4 fig 12)

(Re: cl 5) wherein the bridge is press fit into the open mouth of the dispensing container (c4 L 52-63)

(Re: cl 10) wherein the dispensing aperture comprises an opening with a variable width for dispensing a selected nonwoven wipe (47' fig 12)

(Re: cl 11) wherein the stack of wipes is fitted in a vertical axis of the upright container body (c6 L 1-7)

(Re: cl 12) A wipe dispensing container, comprising: an upright and relatively thin profile container body having a bottom wall joined to a front and rear wall and a pair of sidewalls defining an open mouth (2 fig 2), and a removable bridge in said open mouth and defining a dispensing aperture(4 fig 12); a lid mounted to the container body and including an internal bead for snap fit connection with the container body in a substantially flush position relative to the container body (c4 L 52-63);

(Re: cl 13) wherein the stack of wipes is positioned along the vertical axis of the container body (c6 L 1-7).

and the latter discloses any the elements not inherently taught by the former

including:

(Re: cl 8) further comprising a spring device within the upright container body for maintaining a stack of wipes in a substantially upright position within the interior of the upright container body (40 fig 4b)

(Re: cl 9) wherein the spring device extends along the vertical axis of the upright container body (40 fig 4b)

(Re: cl 12)and a spring device mounted within said container body to maintain the position of a stack of wipes for dispensing (40 fig 4b).

It would have been obvious for Julius et al. to use a vertically oriented spring to press the tissues in place with the bridge to keep the tissues straight and keep the tissues accessible as taught by Fenton and come up with the instant invention.

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22. Claims 1-5 and 7 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bitowft et al. in view of Temesvary et al. 5263607 which discloses the elements previously discussed and further discloses:

(Re: cl 1) A wipe dispensing container, comprising: an upright container body (abstract) ; and a lid for the upright container body, having a seal member thereon for mating with a lip in the upright container body when the lid is in a closed position (10 fig 1)

(Re: cl 2) wherein said wipe dispensing container has a substantially thin profile

(Re: cl 3) wherein the upright container body includes a bottom wall, upstanding front and rear walls, and two sidewalls to define an open mouth (c2 L 47-57)

(Re: cl 4)(3) further including a bridge removably mounted in the open mouth of said upright container body and defining a dispensing aperture, said bridge being removable from said wipe dispensing container to permit access to the interior of the upright container body (c2 L 66-c3 L 12)

(Re: cl 5)(4) wherein the bridge is press fit into the open mouth of the dispensing container. (32b & 4 fig 3)

(Re: cl 10)(4) wherein the dispensing aperture comprises an opening with a variable width for dispensing a selected nonwoven wipe (abstract).

Temesvary et al. 5263607 discloses:

It would have been obvious at the time of the invention for Bitwoft et al. use a variable width aperture to adjust differing tensions and accommodate differing size wipes as taught by Temesvary et al. and come up with the instant invention.

23. Claim(s) 14-15 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Bitowft et al. 6092690 in view of Martens 2274866 wherein the former discloses the elements previously discussed and further discloses:

(Re: cl 14) A method of dispensing at least one wipe from a wipe dispenser, comprising the steps of: Opening a lid on the wipe dispenser;
Drawing the at least one wipe through a dispensing aperture defined in a bridge in an open mouth of the wipe dispenser (c2 L 35-56)

Closing the lid on the wipe dispenser such that the lid is flush with the upper portion of the container body (c4 L 64-67)

Repeating said opening, drawing, and closing steps until substantially all of the at least one wipe within the wipe dispenser are depleted;
and Replacing the bridge and closing the lid (c2 L 35-56)

(Re: cl 15) further comprising the step of placing the wipe dispenser horizontally

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onto a surface before drawing the at least one wipe through the dispensing aperture (inherent best use given the height vs. length and width ratio and desire to avert fluid leakage in the moist preferred wipe embodiment).

Martens discloses:

placing a supply of wipes below a spring (p2 c2 L7-20), and further discloses: a full thumb access between the bridge and wall (p2 c2 L 48-55).

It would have been obvious at the time of the invention for Bitowft et al. to refill with a wipe below a spring a to propel the wipe toward an aperture as taught by Martens and come up with the instant invention.

Double Patenting

24. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

25. Claim 7 is provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 13 of copending Application No. 11/228792 to Young et al.. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

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26. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

27. Claim 1 is provisionally rejected under the judicially created doctrine of double patenting over claims 1-17 and 19 of U. S. Patent No. **11/228792** to Young et al. since the claims, if allowed, would improperly subject applicants to harassment from multiple assignees. Claim 2 is provisionally rejected under the judicially created doctrine of double patenting over claims 2 and 19 of U. S. Patent No. **11/228792** to Young et al. since the claims, if allowed, would improperly subject applicants to harassment from multiple assignees. Claim 3 is provisionally rejected under the judicially created doctrine of double patenting over claims 3 and 13-17 of U. S. Patent No. **11/228792** to Young et

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al. since the claims, if allowed, would improperly subject applicants to harassment from multiple assignees. Claim 4 is provisionally rejected under the judicially created doctrine of double patenting over claims 1-12 of U. S. Patent No. **11/228792** to Young et al. since the claims, if allowed, would improperly subject applicants to harassment from multiple assignees. Claim 5 is provisionally rejected under the judicially created doctrine of double patenting over claims 13-17 and 19 of U. S. Patent No. **11/228792** to Young et al. since the claims, if allowed, would improperly subject applicants to harassment from multiple assignees. Claim 7 is provisionally rejected under the judicially created doctrine of double patenting over claims 14-17 and 19 of U. S. Patent No. **11/228792** to Young et al. since the claims, if allowed, would improperly subject applicants to harassment from multiple assignees. Claim 8 is provisionally rejected under the judicially created doctrine of double patenting over claims 10-11 of U. S. Patent No. **11/228792** to Young et al. since the claims, if allowed, would improperly subject applicants to harassment from multiple assignees. Claim 9 is provisionally rejected under the judicially created doctrine of double patenting over claims 11 of U. S. Patent No. **11/228792** to Young et al. since the claims, if allowed, would improperly subject applicants to harassment from multiple assignees. Claim 12 is provisionally rejected under the judicially created doctrine of double patenting over claims 14 of U. S. Patent No. **11/228792** to Young et al. since the claims, if allowed, would improperly subject applicants to harassment from multiple assignees.

The broadened variants of the instant application are fully encapsulated by the claims of the child application from which the child claims priority to.

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This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion

28. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

29. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exmr. Michael E. Butler whose telephone number is (571) 272-6937.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey, can be reached on (571) 272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael E. Butler
Examiner